



FEDERAL ELECTION COMMISSION
WASHINGTON, D C 20463

APR 24 2007

Neil Reiff, Esq.
Sandler, Reiff & Young, PC
50 E Street, SE, Suite 300
Washington, DC 20003

RE: MUR 5714
Montana State Democratic Central
Committee and Brenda Schye,
in her official capacity as Treasurer

Dear Mr. Reiff:

On April 19, 2007, the Federal Election Commission accepted the signed conciliation agreement and civil penalty submitted on your clients' behalf in settlement of a violation of 2 U.S.C. §§ 434(e)(2)(A) and 434(e)(4), provisions of the Federal Election Campaign Act of 1971, as amended.

Documents related to the case will be placed on the public record within 30 days. *See* Statement of Policy Regarding Disclosure of Closed Enforcement and Related Files, 68 Fed. Reg. 70,426 (Dec. 18, 2003). Information derived in connection with any conciliation attempt will not become public without the written consent of the respondent and the Commission. *See* 2 U.S.C. § 437g(a)(4)(B).

Enclosed you will find a copy of the fully executed conciliation agreement for your files. Please note that the civil penalty is due within 30 days of the conciliation agreement's effective date. If you have any questions, please contact me at (202) 694-1650.

Sincerely,

A handwritten signature in black ink, appearing to be "Lynn Y. Tran", followed by a long horizontal line.

Lynn Y. Tran
Attorney

Enclosure
Conciliation Agreement

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) MUR 5714
Montana State Democratic Central)
Committee and Brenda Schye in her)
official capacity as treasurer)

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COMMISSION
OFFICE OF GENERAL
COUNSEL
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CONCILIATION AGREEMENT

This matter originated with a complaint filed with the Federal Election Commission (the "Commission") by Charles Denowh. The Commission found reason to believe that the Montana State Democratic Central Committee and Brenda Schye, in her official capacity as treasurer ("Respondents"), violated 2 U.S.C. §§ 434(e)(2)(A) and 434(e)(4) by failing to properly report disbursements for federal election activity

NOW, THEREFORE, the Commission and the Respondents, having participated in informal methods of conciliation, prior to a finding of probable cause to believe, do hereby agree as follows:

I. The Commission has jurisdiction over the Respondents and the subject matter of this proceeding, and this agreement has the effect of an agreement entered pursuant to 2 U.S.C. § 437g(a)(4)(A)(i).

II. Respondents have had a reasonable opportunity to demonstrate that no action should be taken in this matter.

III. Respondents enter voluntarily into this agreement with the Commission.

IV. The pertinent facts in this matter are as follows:

1. The Montana State Democratic Central Committee (the "Committee") is a political committee within the meaning of 2 U.S.C. § 431(4) and is a state party committee of the Democratic Party.

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2. Brenda Schye is the treasurer of the Montana State Democratic Central Committee.

3. Conrad Burns was a U.S. Senator from Montana and a candidate for the U.S. Senate from Montana within the meaning of 2 U.S.C. § 431(2).

4. State, district and local committees of a political party are required to report receipts and disbursements for federal election activity if the aggregate amount of the receipts and disbursements exceeds \$5,000 in a calendar year. *See* 2 U.S.C. § 434(e)(2)(A); 11 C.F.R. § 300.36(b)(2). Committees required to report federal election activity must file monthly reports. *See* 2 U.S.C. § 434(e)(4); 11 C.F.R. § 300.36(c)(1).

5. The Act defines “federal election activity” in pertinent part as “[A] public communication that refers to a clearly identified candidate for Federal office (regardless of whether a candidate for State or local office is also mentioned or identified) and that promotes or supports a candidate for that office, or attacks or opposes a candidate for that office (regardless of whether the communication expressly advocates a vote for or against a candidate)” 2 U.S.C. § 431(20)(A)(iii); *see also* 11 C.F.R. § 100.24(b)(3).

6. The term “public communication” includes “a communication by any means of any broadcast, cable or satellite communication . . . or any other form of general public political advertising.” 2 U.S.C. § 431(22); 11 C.F.R. § 100.26.

7. An individual becomes a candidate for federal office, triggering the Act’s registration and reporting requirements when their campaign exceeds \$5,000 in contributions or expenditures *See* 2 U.S.C. § 431(2).

8. Senator Burns’ campaign received more than \$5,000 in contributions as of December 2000, making him a candidate under the Act and subjecting him to the Act’s

registration and reporting requirements. Senator Burns first filed a Statement of Candidacy for the 2006 election on December 13, 2000. Senator Burns also filed multiple amendments to his Statement of Candidacy in 2005.

9. Beginning August 8, 2005, the Committee started airing a television advertisement entitled "Smell Test" questioning Senator Burns' relationship with lobbyist Jack Abramoff. The television advertisement was a public communication that promoted, supported, attacked or opposed a federal candidate, Senator Burns, and therefore constitutes federal election activity under the Act

10. The Committee made \$106,022.89 in disbursements for advertisement.

11 The Committee made the first disbursement, \$35,074.50 to Great American Media, on August 23, 2005. The disbursement was far in excess of the \$5,000 required to trigger federal election activity reporting obligations.

12. The Committee should have filed a monthly report for August 2005 by September 20, 2005, disclosing the disbursement for federal election activity.

13. In addition to the August 2005 disbursement for the advertisement, the Committee made three additional disbursements in 2005 for the advertisement. The Committee made a \$13,363.39 disbursement to Squier Knapp Dunn Communications on October 28, 2005 and made two additional disbursements to Great American Media, \$38,390 on November 22, 2005 and \$19,195 on November 29, 2005

14 Because the Committee continued to make disbursements for federal election activity through the end of 2005, it should have continued to file monthly reports during that time.

15 The Committee did not report the expenditures in connection with the advertisement as federal election activity on its the 2005 Year End Report, filed on January 31, 2006.

16. On April 7, 2006, the Committee amended its 2005 Year End Report to list the \$106,022.89 for federal election activity. The purpose of the disbursements was listed as "FEA 100% Federal Media Buy" and the candidate was listed as "Friends of Conrad Burns." The Committee did not report any other disbursements for federal election activity in 2005.

17. The Committee never filed any monthly reports for 2005. The Committee has changed to a monthly filing schedule for 2006 and intends to continue to file reports on the monthly schedule in the near future.

18. The Committee contends that, at the time of the advertisement, it did not believe that Burns was a candidate because he had yet to file the paperwork necessary to place his name on the ballot under Montana law.

V. Respondents failed to properly report federal election activity, in violation 2 U.S.C. §§ 434(e)(2)(A) and 434(e)(4).

VI. Respondents will take the following actions:

1 Respondents will pay a civil penalty to the Federal Election Commission in the amount of fifteen thousand dollars (\$15,000), pursuant to 2 U.S.C. § 437g(a)(5)(A)

2. Respondents will cease and desist from violating 2 U.S.C. §§ 434(e)(2)(A) and 434(e)(4).

VII The Commission, on request of anyone filing a complaint under 2 U.S.C. § 437g(a)(1) concerning the matters at issue herein or on its own motion, may review compliance with this agreement. If the Commission believes that this agreement or any requirement thereof

has been violated, it may institute a civil action for relief in the United States District Court for the District of Columbia

VIII. This agreement shall become effective as of the date that all parties hereto have executed same and the Commission has approved the entire agreement.

IX. Respondents shall have no more than 30 days from the date this agreement becomes effective to comply with and implement the requirements contained in this agreement and to so notify the Commission

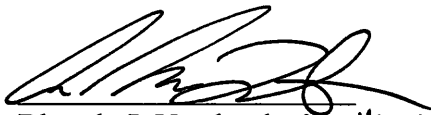
X This Conciliation Agreement constitutes the entire agreement between the parties on the matters raised herein, and no other statement, promise, or agreement, either written or oral, made by either party or by agents of either party, that is not contained in this written agreement shall be enforceable.

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FOR THE COMMISSION:

Thomasenia P. Duncan
Acting General Counsel

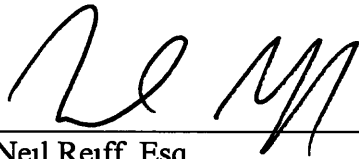
BY.


~~Rhonda J. Vosdingh~~ *Ann Marie Terzaka*
Acting Associate General Counsel
for Enforcement

Date

4/24/07

FOR THE RESPONDENTS:


Neil Reiff, Esq.
Counsel for Respondents

Date

4/9/07

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